

Disciplinary and Other FINRA Actions

Firm Expelled, Individual Sanctioned

PAZ Securities, Inc. (CRD #17554, Boca Raton, Florida) and Joseph Mizrachi (CRD #337288, Registered Principal, Boca Raton, Florida). The firm was expelled from FINRA membership and Mizrachi was barred from association with any FINRA member in any capacity. The SEC affirmed the sanctions imposed by FINRA on remand from the U.S. Court of Appeals. The sanctions were based on findings that the firm and Mizrachi failed to respond to FINRA requests for information.

This decision has been appealed to the U.S. Court of Appeals and the sanctions are in effect pending consideration of the appeal. (FINRA Case #C0720030055)

Firms Fined, Individuals Sanctioned

David A. Noyes & Company (CRD #205, Chicago, Illinois) and Russell Warren Bauman (CRD #15099, Registered Principal, Indianapolis, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$40,000 and required to revise its written supervisory procedures regarding recommendations to customers in over-the-counter (OTC) equity securities; review of active accounts; communications with the public; advertising; institutional sales material; customer correspondence; approval of new accounts; memoranda of brokerage orders; recommendations of speculative, low-priced securities; reviews and supervision of outgoing customer correspondence; outside business activities; discretionary customer accounts; fee-based accounts; open orders; and the activities of the branch office manager. Bauman was fined \$10,000, suspended from association with any FINRA member in any principal capacity for 75 days and required to complete eight hours of FINRA-sponsored continuing education in supervision.

Without admitting or denying the findings, the firm and Bauman consented to the described sanctions and to the entry of findings that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning recommendations to customers in OTC equity securities; review of active accounts; communications with the public; advertising; institutional sales material; customer correspondence;

Reported for August 2008

FINRA has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

approval of new accounts; memoranda of brokerage orders; recommendations of speculative, low-priced securities; reviews and supervision of outgoing correspondence; outside business activities; discretionary customer accounts; fee-based accounts; open orders and the activities of the branch office manager. The findings stated that Bauman, as branch office manager, failed to reasonably supervise a registered representative to detect and prevent violations of NASD Rules 2110, 2120, 2315, 3030, Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-5. The findings also stated that Bauman failed to reasonably supervise the activities of other registered representatives at the firm to detect and prevent violations of NASD Rules 2110 and 3030.

The suspension in any principal capacity is in effect from August 4, 2008, through October 17, 2008. ([FINRA Case #20050000292-04](#))

Linsco/Private Ledger Corp. nka LPL Financial Corporation (CRD #6413, Boston, Massachusetts) and Phillip Scott Eggers (CRD #2064151, Registered Principal, Frisco, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$125,000, \$25,000 of which was jointly and severally with Eggers. Eggers was suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, the firm and Eggers consented to the described sanctions and to the entry of findings that Eggers recommended securities transactions to public customers without reasonable grounds for believing that his recommendations were suitable for the customers. The findings stated that Eggers utilized discretion in the customers' accounts without the customers' written authorization to use discretion, and without his member firm's approval of the accounts as discretionary. The findings also stated that Eggers distributed misleading sales literature to the customers regarding the growth rate of their accounts and the inflation rate. The findings also included that the firm failed to reasonably supervise Eggers in connection with the strategies he employed, his use of marketing materials and the appropriateness of the investments he recommended to the customers.

The suspension in any capacity was in effect from June 23, 2008, through July 14, 2008. ([FINRA Case #E062004027401](#))

Firms and Individuals Fined

Cascadia Capital, LLC (CRD #101020, Seattle, Washington) and Michael Joseph Butler (CRD #1607507, Registered Principal, Seattle, Washington) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Butler were censured and fined \$10,000, jointly and severally. Butler was fined an additional \$15,000. Without admitting or denying the findings, the firm and Butler consented to the described sanctions and to the entry of findings that the firm, acting through Butler, permitted him to perform duties requiring registration while his registration status with FINRA was inactive due to his failure to complete the Regulatory Element of FINRA's continuing education requirement. The findings stated that Butler continued to perform these duties when he knew his registration status was inactive. ([FINRA Case #2007007962901](#))

Chicago Investment Group, LLC (CRD #11853, Chicago, Illinois), Richard Paul Lynch (CRD #1938604, Registered Principal, Chicago, Illinois) and George Ernest Reilly (CRD #1523041, Registered Principal, Fox Lake, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm, Lynch and Reilly were censured; the firm was fined \$75,000, \$15,000 of which was jointly and severally with Lynch and \$20,000 was jointly and severally with Reilly. Reilly must requalify by examination as a general securities principal, and the firm is required to retain an independent consultant to conduct a comprehensive review of the adequacy of its policies, systems, procedures (written and otherwise) and training related to supervising individuals with a disciplinary history, preserving electronic communications and conducting due diligence in its participation in private placement offerings.

Without admitting or denying the findings, the firm, Lynch and Reilly consented to the described sanctions and to the entry of findings that the firm, acting through Lynch, sold shares of a private placement offering pursuant to a private placement memorandum that contained negligent material misrepresentation or omissions. The findings stated that the firm failed to timely report settlements and failed to report a \$20 million arbitration award for a registered representative who was subject to a special supervisory plan. The findings also stated that the firm failed to keep the registered representative's Uniform Application for Securities Industry Registration or Transfer (Form U4) current by disclosing the arbitration award, and failed to register representatives as principals based upon the activities in which each was engaged. The findings also included that the firm, acting through Reilly, failed to establish, maintain and enforce an adequate supervisory system and procedures regarding the activities of a registered representative under a special supervisory plan. FINRA found that the firm failed to ensure that email correspondence a registered representative sent and received under a special supervisory plan was maintained in a non-rewritable, non-erasable format, and failed to implement and enforce an adequate supervisory system and procedures to ensure compliance with SEC and FINRA recordkeeping requirements. (FINRA Case #E8A2005004601)

Firms Fined

A.G. Edwards & Sons, Inc. (CRD #4, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$300,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its former securities lending representatives facilitated improper stock loan transactions with counterparties at artificially low rates, directed or facilitated unwarranted payments to finders, and participated in transactions that did not serve the firm's interest whatsoever, but benefited counterparties and finders who made payments back to the firm's registered stock loan representatives. The findings stated that the firm failed to establish, maintain and enforce a system and written supervisory procedures regarding its securities lending business and lending representatives in order to prevent and detect fraudulent stock loan transactions. The findings also stated that the firm's supervisory system failed to require an independent

supervisory review to ensure that delegated supervisory authority and responsibility were being properly exercised. The findings also included that the firm permitted an individual to serve as its securities lending manager although the New York Stock Exchange had never registered, approved or found him to be qualified. FINRA found that the firm failed to retain copies of facsimile transmissions stock loan desk sent or received. (**FINRA Case #2007011877401**)

Ameriprise Financial Services, Inc. (CRD #6363, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it incorrectly reported corporate bond transactions in the Trade Reporting and Compliance Engine (TRACE) reporting system as principal capacity trades when, in fact, they were agency capacity trades. The findings stated that the firm failed to report the yields for corporate bond transactions and failed to report both the customer-side and dealer-side trades of corporate bond transactions to TRACE. (**FINRA Case #20070071181-01**)

Banc of America Securities LLC (CRD #26091, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the NASDAQ Market Center (NMC—now the NASD/NASDAQ Trade Reporting Facility (TRF)), and failed to designate some of them as late; failed to report the correct symbol indicating whether transactions were buy, sell, sell short, sell short exempt or cross for transactions in reportable securities to the NMC; failed, within 90 seconds after execution, to transmit last sale reports of transactions in NASDAQ National Market and SmallCap securities to the NMC; and the firm reported last sale reports of transactions in designated securities to the NMC that it was not required to report. The findings stated that the firm incorrectly media-reported clearing transactions in reportable securities to the TRF, and failed to report the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity to the TRF. (**FINRA Case #20060041509-01**)

Chardan Capital Markets LLC (CRD #120128, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed short sale orders and failed to properly mark the orders as short. The findings stated that the firm failed to report the correct symbol indicating whether transactions in reportable securities were a buy, sell, sell short, sell short exempt or cross to the TRF. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning short sales. (**FINRA Case #20050031683-01**)

Choice Investment, Inc. (CRD #17665, Austin, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to file all advertisements used on its Web site or on the Internet with FINRA at least 10 days prior to first use for six months. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it committed several violations of NASD rules by means of various false and misleading statements regarding its services, including incomplete and unbalanced discussions of market timing and the use of leverage, within its Web site. The findings stated that these misleading advertisements were available for widespread access and use by the investing public, not only by those who were the firm's customers. The findings also stated that the firm's Web site discussed and presented performance data for a specific registered investment company but failed to comply with the specific disclosure requirements of Rule 482 under the Securities Act of 1933, and noted that it was a member of the Securities Investor Protection Corporation (SIPC) but failed to properly comply with SIPC's by-laws. The findings also included that the firm failed to file its Web site with FINRA as it was required to do. (FINRA Case #2007008278201)

Citigroup Global Markets Inc. (CRD #7059, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$100,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that the customer identification program (CIP) a division of the firm utilized was inadequate in that certain accounts were not subjected to an adequate customer identify verification process at the account opening stage. The findings stated that accounts in this division were not restricted despite the fact that the firm failed to properly verify the customers' identities within 30 days of the account opening. (FINRA Case #E102005008801)

Deutsche Bank Securities, Inc. (CRD # 2525, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$37,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had a fail-to-deliver position in a threshold security at a registered clearing agency for 13 consecutive settlement days and failed immediately thereafter to close out the fail- to-deliver position by purchasing securities of like kind and quantity, and continued to have a fail- to-deliver position which it failed to close out as required for 10 consecutive settlement days thereafter. The findings stated that the firm reported route or combined order/route reports to the Order Audit Trail System (OATS) that the OATS system was unable to link to the related order routed to SuperMontage, or was unable to link to the corresponding new order the destination member firm submitted due to inaccurate, incomplete or improperly formatted data. The findings also stated that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated and eligible securities to the TRF; transmitted last sale reports of transactions in eligible securities to the TRF and failed to designate some of the eligible securities reports as late. The findings also included that the firm failed append "the .W" trade modifier to reflect prices based on average-weighting or other special pricing formulae. FINRA found that the firm failed to

accept or decline transactions in reportable securities in the TRF within 20 minutes after execution, and that the firm had an obligation to accept or decline in the TRF as the order entry firm (OEID). (**FINRA Case #20050018280-01**)

E*Trade Capital Markets LLC (CRD #111528, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$40,000 and required to revise its written supervisory procedures regarding the three-quote rule, "riskless" principal transaction reporting, accepting short sales in threshold securities pursuant to Regulation SHO, accepting or declining trades in a timely manner, soft dollar accounts and multiple market participant identifiers (MPIDs). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to contemporaneously or partially execute customer limit orders in NASDAQ securities after it traded each security for its own market-making account at a price that would have satisfied each customer's limit order; incorrectly reported the second leg of "riskless" principal transactions in designated securities to the NMC because it incorrectly designated the transactions as media reported; incorrectly reported principal transactions as "riskless" principal transactions to the NMC; and failed to report the correct symbol indicating whether transactions were long, sell short or sell short exempt for transactions in reportable securities to the NMC.

The findings stated that the firm failed, when it acted as principal for its own account, to provide written notification disclosing to its customers that transactions were executed at an average price, the correct reported trade price, that it was a market maker in each security, and incorrectly disclosed a commission in connection with the transactions when no commission had been charged. The findings also stated that the firm failed to provide its customers with an annual notification that hard copies of the firm's order routing information were available, free of charge, upon request. The findings also included that the firm failed to enforce its written supervisory procedures regarding soft dollar trades and accepting short sales in threshold securities pursuant to Regulation SHO, and failed to maintain records evidencing that the firm had conducted an annual compliance meeting pursuant to NASD Rule 3010(a)(7). FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules regarding the three-quote rule, "riskless" principal transaction reporting, accepting short sales in threshold securities pursuant to Regulation SHO, accepting or declining trades in a timely manner, soft dollar accounts and multiple MPIDs. (**FINRA Case #20050031831-01**)

E*Trade Securities, LLC (CRD #29106, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to TRACE transactions in TRACE-eligible securities executed on a business day during TRACE system hours within 15 minutes of the time of execution and reported to TRACE transactions in TRACE-eligible securities it was not required to report. (**FINRA Case #20060055189-01**)

FTN Financial Securities Corp. (CRD #46346, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and required to revise its written supervisory procedures regarding TRACE. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct contra-party's identifier in transactions in TRACE-eligible securities to TRACE, and failed to report transactions in TRACE-eligible securities within 30 minutes of execution. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning TRACE. (**FINRA Case #20050013890-01**)

Gilder Gagnon Howe & Co., LLC (CRD #2002, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,000 and required to revise its written supervisory procedures regarding supervisory systems, procedures and qualifications, order handling, best execution, trade reporting, sale transactions, other trading rules and OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity to the NMC. The findings stated that the firm failed to report the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt or cross for one transaction in a reportable security to the NMC; the firm incorrectly matched an erroneous trade for one transaction in a reportable security on the NMC. The findings also stated that the firm failed to provide written notification disclosing to its customers its correct capacity in transactions and/or incorrectly disclosed that the price the customers received was an average price. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules addressing quality of market topics. Specifically, FINRA found that the firm's written supervisory procedures failed to provide for minimal requirements for adequate written supervisory procedures in the following areas: supervisory systems, procedures and qualifications, order handling, best execution, trade reporting, sale transactions, other trading rules and, OATS. FINRA also found that the firm failed to conduct adequate supervision with regard to its trade reporting to the NMC. (**FINRA Case #20060044855-01**)

Great Pacific Fixed Income Securities, Inc. (CRD #29251, Costa Mesa, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and required to revise its written supervisory procedures regarding TRACE and municipal securities reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities within 30 minutes of execution. The findings stated that the firm improperly reported information to the Real-time Transaction Reporting System (RTS) that it should not have, in that it improperly reported

"purchase and sale transactions effected in municipal securities" when the events were nonreportable customer allocations of reportable block transactions that the firm failed to report. The findings also stated that the firm failed to report information regarding purchase and sale transactions effected in municipal securities to the RTRS in the manner prescribed by Rule G-14 RTRS Procedures and the RTRS Users Manual by failing to include a special condition indicator, or failing to report information to an RTRS Portal within 15 minutes of the trade time for certain transactions or by the end of the execution day for other transactions. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD and MSRB rules concerning TRACE and municipal securities reporting. FINRA found that the firm failed to enforce its written supervisory procedures that specified that the designated principal would initial and date transaction or order records reviewed with notations in the supervisor's daytimer or supervisory log. (FINRA Case #20050020359-02)

KBC Financial Products USA, Inc. (CRD #46709, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct execution time for transactions in TRACE-eligible securities to TRACE, failed to report the correct terms of transactions, and submitted incorrect reports to TRACE that were not canceled or corrected. The findings stated that the firm reported transactions in TRACE-eligible securities to TRACE that it was not required to report because the transactions were executed outside the United States by its foreign affiliate. The findings also stated that the firm failed to enforce its written supervisory procedures relating to TRACE reporting, which specified that the firm's "desk supervisor" (or designee) must review the daily trading records in part to ensure that corporate bond trades executed and cleared outside the United States by a foreign affiliate of the firm would not be reported in the United States by the firm. (FINRA Case #20050001668-02)

Lexington Investment Company (CRD #27393, Lexington, Kentucky) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report corporate bond trades to TRACE because it mistakenly assumed that its clearing agent was reporting the trades, and no one at the firm took any steps to ensure and verify that TRACE-eligible trades were being reported. The findings stated that the firm failed to retain copies of all outgoing email communications, and failed to prepare accurate securities received and forwarded blotters. (FINRA Case #2007007339501)

Merrill Lynch Government Securities, Inc. (CRD #19693, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$140,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to reconcile principal and interest payments relating to mortgage-backed securities and U.S. Treasuries, primarily in connection with repurchase agreements and reverse repurchase agreements. The findings stated that the firm's books and records were inaccurate from approximately

December 21, 2005, to April 2007, and the firm filed an inaccurate Report on Finances and Operations of Government Securities Brokers and Dealers (FOGS Report), however, the firm had—at all times—excess liquid capital above its requirements and its deposits to its (k)(2)(i) segregated account had been sufficient throughout the period in question. The findings also stated that the firm had an inadequate supervisory system and control in place regarding the activities of its unit responsible for processing principal and interest payment activity, and its procedures for internal firm communications were also inadequate, resulting in a lengthy delay before its regulatory personnel knew of the problems, and before the problems were reported to FINRA. (FINRA Case #2006007511101)

Piper Jaffray & Co. (CRD #665, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that when it acted as an underwriter in primary offerings of municipal securities, it failed to submit G-36 forms (official statements and advance refunding documents) with the MSRB in a timely manner. (FINRA Case #20070071254-01)

Sterne, Agee & Leach, Inc. (CRD #791, Birmingham, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it erroneously computed its customer reserve, in that it failed to make the required adjustments to the Customer Reserve Formula computations and failed to ensure its accuracy. The findings stated that the firm failed to prepare the adjustments required at the time of the computation and, therefore, failed to accurately calculate its reserve formula. The findings also stated that the firm failed to maintain accurate books and records with regard to the computations and recalculations it performed. (FINRA Case #2007009471301)

Scottrade, Inc. (CRD #8206, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$45,000 and required to revise its written supervisory procedures regarding SEC Rules 203(a)(1) and 203(b)(1), and NASD Rule 6130(d)(6). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it effected short sales in a security for its proprietary account(s) and failed to annotate an affirmative determination that the firm could borrow the security or otherwise provide for delivery of the security by settlement date. The findings stated that the firm had fail-to-deliver positions at a registered clearing agency in threshold securities for 13 consecutive settlement days and, because of discrepancies between data processing systems, failed to immediately close out the fail-to-deliver positions by purchasing securities of like kind and quantity, and continued to have fail-to-deliver positions at the clearing agency thereafter for consecutive settlement days until a later date. The findings also stated that the firm failed to accept or decline transactions in reportable securities in the NMC within 20 minutes after execution that it had an obligation to accept or decline in the NMC as the OED. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning SEC Rules 203(a)(1) and 203(b)(1), and NASD Rules 3370 and 6130(d)(6). (FINRA Case #20041000164-01)

SMH Capital Inc. fka Sanders Morris Harris Inc. (CRD #20580, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$45,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, while acting through one of its representatives, it executed mutual fund transactions, a number of which exceeded the trading limitations contained in various mutual fund company prospectuses, on behalf of a hedge fund and other customers. The findings stated that the firm had notice of "block letters" from mutual fund companies sent to the representative regarding his excessive market timing activities because the letters were sent to the representative at the firm's home office. The findings also stated that the firm failed to establish, maintain or enforce a supervisory system and procedures reasonably designed to detect and prevent market timing activities that contravened applicable mutual fund company prospectus terms. The findings also included that the firm failed to take any supervisory action against the representative who received the "block letters" to ensure that he did not continue his market timing activities in the subject mutual fund companies. (FINRA Case #E062004031201)

Stoever, Glass & Company Inc. (CRD # 7031, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,000 and ordered to pay \$3,482.74, plus interest, in restitution to customers. Satisfactory proof of restitution payment or of documented efforts undertaken to effect restitution shall be provided to FINRA. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in pairs of transactions, the firm purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer, municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer, or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. (FINRA Case #20060049764-01)

UBS Securities LLC (CRD #7654, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$116,000 and required to revise its written supervisory procedures concerning compliance with NASD Rules 3110(b)(1), 3370, 6130(d)(6), order handling, best execution, other trading rules, soft dollar accounts and trading, and other rules. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted customer short sale orders in securities and, for each order, failed to make an affirmative determination that the firm would receive delivery of the security on the customer's behalf or that the firm could borrow the security on the customer's behalf for delivery by settlement date. The findings stated that the firm effected short sales in securities for its proprietary account and failed to make an affirmative determination or to annotate an affirmative determination that the firm could borrow the securities or otherwise provide for delivery by settlement date. The findings also stated that the firm

executed short sale orders and failed to properly mark the order tickets as short; in addition, the firm executed short sale transactions and failed to report them to the NMC with a short sale modifier. The findings also included that the firm submitted reportable order events (ROEs) to OATS after the 4:00 AM deadline. FINRA found that the firm failed to show correct information on brokerage order memoranda and that it failed to preserve brokerage order memoranda, trading ledgers, customer confirmations and account statements for a period of not less than three years, the first two in an accessible place. FINRA also found that the firm reported the incorrect capacity for last sale reports of transactions in designated securities to the Automated Confirmation Transaction Service (ACT); failed to report last sale reports of transactions in designated securities to ACT; reported the incorrect execution time for last sale reports of transactions in designated securities to ACT, and failed to report the correct modifier for last sale reports of transactions in designated securities to ACT; and reported last sale reports of transactions in designated securities to ACT that it was not required to report. In addition, FINRA determined that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. Moreover, FINRA found that the firm failed to immediately display customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved its bid or offer in each security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each security, and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. Furthermore, FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with NASD Rules 3110(b)(1), 3370 and 6130(d)(6); the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning order handling, best execution, other trading rules, soft dollar accounts and trading, and other rules. FINRA also found that the firm failed to enforce its written supervisory procedures regarding order handling, soft dollar accounts and trading. (FINRA Case #20041000004-01)

WFG Investments, Inc. (CRD #22704, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$27,500 and ordered to pay \$10,029.96, plus interest, in restitution to public customers. Satisfactory proof of payment of the restitution or of reasonable and documented efforts undertaken to effect restitution shall be provided to FINRA. The firm was also required to revise its written supervisory procedures regarding compliance with MSRB Rules G-17 and G-30. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in pairs of transactions, it purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to customers at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount

of the transaction. The findings stated that the firm failed to show correct terms and conditions on the memoranda of transactions in municipal securities for the account of the firm executed with a customer other than a broker or dealer, by incorrectly providing a buy or sell designation on transaction memoranda; failed to include time stamps that showed the correct time of receipt on transaction memoranda; and failed to include time stamps that showed the execution time on transaction memoranda. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with MSRB Rules G-17 and G-30. The findings also included that the firm failed to enforce its written supervisory procedures that specified that a designated principal would review and approve each order ticket and evidence the review by initialing the order ticket; none of the order tickets for the paired transactions reflected any indication of a supervisory review of the order tickets. ([FINRA Case #20060042794-01](#))

Individuals Barred or Suspended

Philip Craig Albrecht (CRD #4335093, Registered Representative, North Muskegon, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Albrecht's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Albrecht consented to the described sanctions and to the entry of findings that he effected securities transactions in public customers' accounts without the customers' contemporaneous prior knowledge and consent, as required by his member firm's written supervisory procedures. The findings stated that Albrecht effected the transactions one and two months after the customers made the orders, and as a result, he engaged in discretionary trading without the customers' authorization and against his firm's policy.

The suspension in any capacity was in effect from June 16, 2008, through June 27, 2008. ([FINRA Case #2007010827501](#))

Jack Alexander Arnold (CRD #2550256, Registered Representative, Lakeland, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Arnold consented to the described sanction and to the entry of findings that he participated in private securities transactions, for compensation, without prior written notice to, or prior written approval from, his member firms. The findings stated that Arnold invested \$145,000 in a common stock without providing his member firm with prior written notice of his intent to purchase this stock and obtaining his member firm's approval. ([FINRA Case #2007009927401](#))

Christopher Michael Barth (CRD #4321397, Registered Representative, Wilmington, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Barth's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Barth consented to the described sanctions and to the entry of findings that he signed a public customer's name on new account documents without the customer's knowledge, authorization or consent.

The suspension in any capacity was in effect from June 16, 2008, through July 15, 2008. (FINRA Case #2007009577601)

Nicholas Anthony Baumgartner (CRD #5025273, Registered Representative, Overland Park, Kansas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Baumgartner consented to the described sanction and to the entry of findings that, in order to meet a production goal for his broker/dealer insurance affiliate, he falsified fixed insurance product applications, forged signatures on the applications for public customers and submitted the completed applications to an insurance company without the applicants' knowledge or consent. The findings stated that Baumgartner paid the premiums for the initiation of these policies without the applicants' knowledge or consent. (FINRA Case #20080119927-01)

Patrick Larkin Belland (CRD #4379896, Registered Principal, Montreal, Canada) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$50,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Belland consented to the described sanctions and to the entry of findings that he purchased call options after receiving material non-public information about the potential acquisition of a software company from a company employee and failed to take steps to investigate whether the information was material, nonpublic information improperly obtained prior to trading. The findings stated that Belland failed to provide his member firm with fully accurate and complete information regarding his options purchase.

The suspension in any capacity is in effect from July 21, 2008, through September 20, 2008. (FINRA Case #2006004633001)

Robert Eugene Bickford III (CRD #1206667, Registered Principal, Sterling, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bickford consented to the described sanction and to the entry of findings that he converted \$31,079.86 of a public customer's funds to his own use and benefit. (FINRA Case #2007009610801)

Patrick Butrico (CRD #2295351, Registered Principal, Staten Island, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Butrico consented to the described sanction and to the entry of findings that he executed orders for the purchase or sale of mutual fund shares for public customers through multiple accounts to disguise the accounts' market timing and to evade prohibitions and restrictions imposed by mutual funds through block notices forwarded to Butrico. The findings stated that Butrico facilitated impermissible late trading by receiving orders after 4:00 pm ET, and causing the orders to be entered and executed at that day's net asset value (NAV) although he knew or should have known that the transactions should be priced at the following day's NAV. ([FINRA Case #E3A2003049501](#))

Timothy Tyrone Calaway (CRD #2273397, Registered Representative, Frisco, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Calaway failed to respond fully to FINRA requests for information. The findings stated that Calaway exercised discretionary authority in a public customer's securities account without prior written authorization from either the customer or his member firm. ([FINRA Case #2006005441801](#))

Jeanne Marie Caspersen (CRD# 1822044, Registered Representative, Tomball, Texas) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Caspersen consented to the described sanction and to the entry of findings that she misappropriated funds from another employee of her member firm, in that she credited her personal firm account with \$1,000 transferred from another registered representative's personal firm account by entering a credit request through the firm's internal system. ([FINRA Case #2007009396501](#))

Allan Yiv Chan (CRD #4315701, Associated Person, Dublin, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Chan's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Chan consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

The suspension in any capacity is in effect from July 7, 2008, through October 6, 2008. ([FINRA Case #20070104825-01](#))

Edward Nelson Colburn Jr. (CRD #1079357, Registered Representative, Kansas City, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for 75 days and ordered to requalify by examination as a general securities representative. If Colburn fails to requalify as a general securities representative within the 75-day period, he will be suspended from acting in such capacity until the examination is successfully completed. The fine must be paid either immediately upon Colburn's reassociation with a FINRA member firm following his suspension, or prior to the filing

of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Colburn consented to the described sanctions and to the entry of findings that he executed unauthorized trades in public customers' accounts. The findings stated that Colburn executed discretionary trades in a customer's account without prior written authorization. The findings also stated that Colburn falsely marked the order tickets as unsolicited, although these trades were, in fact, solicited.

The suspension in any capacity is in effect from July 7, 2008, through September 19, 2008. (FINRA Case #2007009433801)

Stephen Patrick Dunbar (CRD #2041644, Registered Representative, Atlanta, Georgia) was barred from association with any FINRA member in any capacity. The sanction was imposed by the National Adjudicatory Council (NAC) following appeal of an Office of Hearing Officers (OHO) decision. The sanction was based on findings that Dunbar engaged in unsuitable trading in public customers' accounts. The findings stated that, in an effort to conceal the unsuitable trading in the accounts, Dunbar provided the customers with false and misleading account summaries. The findings also stated that Dunbar exercised discretion in the customers' accounts without written authorization. (FINRA Case #C0720050050)

Leland Alan Dykes (CRD #2230072, Registered Principal, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Dykes consented to the described sanction and to the entry of findings that he raised \$450,000 from public customers and represented that their funds would be utilized to invest in pharmaceutical companies or to purchase medical receivables, and that they would receive a return on their investments, but he failed to adequately disclose all potential risks associated with the investment. The findings stated that Dykes subsequently utilized the investors' funds for, among other things, personal and other expenses and to make purported interest/return of principal payments to the investors. The findings also stated that Dykes willfully failed to update his Form U4 to disclose material information. The findings also included that Dykes failed to respond to FINRA requests for information. (FINRA Case #2006006804301)

William Ewing (CRD #4823220, Registered Representative, New Canaan, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined \$10,000 and suspended from association with any FINRA member in any capacity for four months. Ewing must also cooperate with FINRA in its prosecution of any other disciplinary action related to these events and to testify truthfully at any related hearing. The fine must be paid either immediately upon Ewing's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ewing consented to the described sanctions and to the entry of findings that he failed to conduct an adequate inquiry into and follow up on a public customer's trades, in that he had knowledge of various orders from a hedge fund customer to sell shares of a stock and that each of the orders was placed just before the market's open and close. The findings stated that Ewing knew that the

customer benefited from a decreased share price and should have known that these trades could represent the customer's attempts to improperly manipulate the share price by marking the open and close.

The suspension in any capacity is in effect from July 7, 2008, through November 6, 2008. ([FINRA Case #2007007792901](#))

John Danis Garcia (CRD #4621646, Registered Representative, Bronx, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Garcia consented to the described sanction and to the entry of findings that he failed to appear for a FINRA on-the-record interview. ([FINRA Case #2006005957301](#))

Arthur Anthony Gerome (CRD #804891, Registered Representative, Oak Park, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Gerome consented to the described sanctions and to the entry of findings that, contrary to his member firm's written procedures, he borrowed \$14,500 from a public customer without receiving his firm's written approval or without disclosing the borrowing arrangement before receiving the loan.

The suspension in any capacity is in effect from July 21, 2008, through August 19, 2008. ([FINRA Case #2006006417301](#))

Paul Michael Giarmoleo (CRD #2096430, Registered Principal, Miller Place, New York) was fined \$27,500 and suspended from association with any FINRA member in any capacity for one year. The fine is due and payable when, and if, Giarmoleo returns to the securities industry. The sanctions were based on findings that Giarmoleo made fraudulent misrepresentations and omissions in his recommendation of a speculative stock. The findings stated that Giarmoleo recommended the stock without having a reasonable basis for believing the stock was suitable for the customers and failed to base his recommendation on a review of the issuer's current financial statements. The findings also stated that Giarmoleo made price predictions concerning the stock that were reckless material misrepresentations because they lacked a reasonable basis.

The suspension in any capacity is in effect from July 7, 2008, through July 6, 2009. ([FINRA Case #2005000191701](#))

Gary Mark Giblen (CRD #1819311, Registered Principal, Darien, Connecticut) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for seven business days. In light of Giblen's financial status, no monetary sanction was imposed. Without admitting or denying the allegations, Giblen consented to the described sanction and to the entry of findings that he issued a public research report on a stock through his member firm with an "Accumulate" recommendation, an upgrade from his previous "Neutral" rating on the company. The findings stated that without revising his recommendation and contrary to previous recommendations, Giblen purchased put options on the stock, reflecting his negative short-term view on the stock, which was inconsistent with his then-current recommendation of "Accumulate."

The suspension in any capacity was in effect from July 21, 2008, through July 29, 2008.
(FINRA Case #2005001601001)

Dennis Todd Lloyd Gordon (CRD #1614614, Registered Principal, Rosenberg, Texas) and Sterling Scott Lee (CRD #1848950, Registered Principal, Austin, Texas) were barred from association with any FINRA member in any capacity and suspended from association with any FINRA member in any capacity for six months. In addition, Lee was suspended from association with any FINRA member in any capacity for an additional 30 days. Lee's suspensions shall run concurrently. The Securities and Exchange Commission (SEC) affirmed and imposed the sanctions following appeal of a NAC decision. The sanctions were based on findings that Gordon and Lee permitted an unregistered and statutorily disqualified individual to function as a principal of the firm and failed to disclose the individual's association with the firm on its Uniform Application for Broker-Dealer Registration (Form BD). The findings also stated that Gordon and Lee charged public customers excessive and undisclosed markups, and that Lee was responsible for his firm's failure to disclose its markups on customer confirmations.

The suspensions in any capacity are in effect from July 7, 2008, through January 6, 2009. Lee's additional suspension in any capacity was in effect from July 7, 2008, through August 5, 2008. The bars have been in effect since the issuance of the NAC's decision.
(FINRA Case #C0620040027)

Jimmie Lee Griffith (CRD #2321620, Registered Representative, Richmond, California) was fined \$13,200 and suspended from association with any FINRA member in any capacity for three months. The NAC imposed the sanctions following appeal of an OHO decision. The SEC dismissed Griffith's application for an SEC review. The sanctions were based on findings that Griffith effected unauthorized trades in a customer account.

The suspension in any capacity was in effect from May 7, 2007, through August 6, 2007.
(FINRA Case #C0120040025)

Vivian Veryle Gwin (CRD #4228943, Registered Representative, Bismarck, North Dakota) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Gwin consented to the described sanction and to the entry of findings that she participated in private securities transactions, for compensation, without prior written notice to, and written approval from, her member firm. The findings stated that Gwin failed to appear for a FINRA on-the-record interview.
(FINRA Case #20060072975-01)

Thomas Charles Helbig (CRD #1039534, Registered Representative, Carnegie, Pennsylvania) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Helbig misused a public customer's funds by causing the unauthorized transfer of \$10,000 from a customer's annuity to a bank account Helbig owned, thereby commingling the customer's funds with his personal funds. The findings stated that Helbig failed to respond fully to FINRA requests for information and documents, and failed to appear for a FINRA on-the-record interview.
(FINRA Case #2006005528601)

Charlene Chong Ingram (CRD #4876128, Registered Representative, Chesapeake, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Ingram's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ingram consented to the described sanctions and to the entry of findings that she signed public customers' names on various documents relating to customer transactions, without their authorization or consent.

The suspension in any capacity is in effect from July 7, 2008, through October 6, 2008. (FINRA Case #2007008916401)

John Tawfik Iskander (CRD #3203895, Registered Representative, Dayton, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Iskander's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Iskander consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4 and his member firm's Disclosure Form.

The suspension in any capacity is in effect from July 7, 2008, through January 6, 2009. (FINRA Case #2007009461101)

William Edward Kassar Jr. (CRD #2245223, Registered Principal, Lattingtown, New York) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Kassar's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Kassar consented to the described sanctions and to the entry of findings that he sold unregistered shares of securities on public customers' behalf, which violated Section 5 of the Securities Act of 1933 and NASD Rule 2110. The findings stated that Kassar possessed information that should have alerted him to the necessity of conducting an inquiry into the registration or exemption status of the securities and did not ascertain any facts necessary to determine if the shares were exempt.

The suspension in any capacity was in effect from July 7, 2008, through August 5, 2008. (FINRA Case #2005000075703)

David Allen Kecske (CRD #1938745, Registered Representative, Lawrenceburg, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for five business days. Without admitting or denying the findings, Kecske consented to the

described sanctions and to the entry of findings that he exercised discretion in a public customer's account without the customer's prior written authorization and his member firm's acceptance of the account as discretionary.

The suspension in any capacity was in effect from July 21, 2008, through July 25, 2008. (FINRA Case #2006006125901)

Mitchell Scott Kenvin (CRD #2251552, Registered Representative, Plano, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Kenvin's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kenvin consented to the described sanctions and to the entry of findings that he engaged in outside business activities without prompt written notice to his member firms.

The suspension in any capacity is in effect from July 7, 2008, through January 6, 2010. (FINRA Case #2007008106801)

Jose E. Llopiz Feliciano (CRD #5315653, Associated Person, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Feliciano's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Feliciano consented to the described sanctions and to the entry of findings that he failed to disclose a material fact on his Form U4.

The suspension in any capacity is in effect from June 16, 2008, through September 15, 2008. (FINRA Case #2007010254301)

Vicente Demetrius Lopez (CRD #2216550, Registered Representative, East Orange, New Jersey) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Lopez failed to respond to FINRA requests for documents and information. The findings stated that Lopez improperly borrowed \$22,000 from a public customer and reported false information on a firm compliance questionnaire relating to that loan. (FINRA Case #2006005998601)

Warren Elroy Lystrup (CRD #1787059, Registered Representative, Goodyear, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Lystrup consented to the described sanctions and to the entry of findings that he cut and pasted a public customer's signature onto his member firm's delivery assurance form—which substantiated delivery of a financial plan—without the customer's knowledge or consent.

The suspension in any capacity was in effect from July 7, 2008, through August 5, 2008. (FINRA Case #2007010327001)

Rafael Luis Marte (CRD #4304158, Registered Principal, Bronx, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in a Limited Principal – Financial and Operations capacity for 20 business days. The fine must be paid either immediately upon Marte's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Marte consented to the described sanctions and to the entry of findings that he allowed his member firm to conduct a securities business while the firm was below its net capital requirement. The findings stated that Marte maintained inaccurate financial books and records for his firm and filed inaccurate Financial and Operational Combined Uniform Single (FOCUS) reports on his firm's behalf with FINRA. The findings also stated that Marte failed to ensure that his firm maintained a fidelity bond.

The suspension in a Limited Principal – Financial and Operations capacity is in effect from July 21, 2008, through August 15, 2008. (FINRA Case #2007007155401)

Dina Mistry (CRD #5332701, Associated Person, Lake Hiawatha, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Mistry's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Mistry consented to the described sanctions and to the entry of findings that she willfully failed to disclose material information on her Form U4.

The suspension in any capacity is in effect from July 7, 2008, through January 6, 2009. (FINRA Case #2007009199301)

Manuel Raul Montanez (CRD #4525405, Registered Representative, Duarte, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Montanez' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Montanez consented to the described sanctions and to the entry of findings that he engaged in outside business activities and failed to provide his member firm with prompt written notice.

The suspension in any capacity is in effect from July 21, 2008, through October 20, 2008. (FINRA Case #2006007065501)

Paul Andrew Niess (CRD #2157145, Registered Representative, Bartlett, Illinois) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Niess participated in private securities transactions without prior written notice to, or written approval from, his member firm. The findings stated

that Niess borrowed \$405,000 from public customers in violation of his firm's written supervisory procedures, which prohibited registered representatives from "making loans to or accepting loans from customers." (FINRA Case #2005003332001)

Christopher Daniel Nowak (CRD #4024458, Registered Representative, Lincoln, Rhode Island) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Novak consented to the described sanction and to the entry of findings that he forged his spouse's name on mortgage documents to secure loans totaling \$273,500. (FINRA Case #2007009835101)

Farhang Oshidary (CRD #1545176, Registered Representative, Sunnyvale, California) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for four months. In light of Oshidary's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Oshidary consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written or oral notice to his member firm.

The suspension in any capacity is in effect from July 21, 2008, through November 20, 2008. (FINRA Case #2007009432901)

Kenneth Rik Osmer (CRD #5194984, Registered Representative, Villa Park, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Osmer's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Osmer consented to the described sanctions and to the entry of findings that, without their knowledge or consent, he signed public customers' names on medical consent forms intended for use in connection with their life insurance applications.

The suspension in any capacity is in effect from July 21, 2008, through September 18, 2008. (FINRA Case #2007010470601)

Tony James Parker (CRD #5262801, Associated Person, Bowling Green, Kentucky) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Parker failed to respond to FINRA requests for information. The findings stated that Parker willfully failed to disclose a material fact on his Form U4. (FINRA Case #2007007959601)

Leland Anthony Patin (CRD #1466597, Registered Representative, Dallas, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Patin failed to respond to FINRA requests to provide on-the-record testimony. (FINRA Case #2006006789001)

James Mintz Provo (CRD #1995147, Registered Principal, Camden-Wyoming, Delaware) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Provo's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Provo consented to the described sanctions and to the entry of findings that he signed public customer names to financial disclosure documents without their authorization or consent.

The suspension in any capacity is in effect from July 7, 2008, through October 6, 2008. ([FINRA Case #2007008694901](#))

Quay Allison Pund (CRD #4202236, Associated Person, Old Monroe, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Pund consented to the described sanction and to the entry of findings that she converted \$29,193.21 that belonged to a public customer by requesting that the liquidation of the customer's mutual funds which had been erroneously placed into her firm personal investment account, to be sent to her home address as a check, which she then cashed. The findings stated that Pund failed to appear for a FINRA on-the-record interview. ([FINRA Case #20070114482-01](#))

Melvin Ray (CRD #5122930, Associated Person, Tamarac, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 45 business days. In light of Ray's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Ray consented to the described sanction and to the entry of findings that, while associated with a member firm, he acted in a capacity that required registration with FINRA while he was not registered and never possessed any securities licenses. The findings stated that Ray made misrepresentations to a prospective customer regarding the material features of bonds and the safety of the bonds.

The suspension in any capacity is in effect from June 16, 2008, through August 18, 2008. ([FINRA Case #2007007901301](#))

Andre Ryan Roman (CRD #4703018, Registered Representative, Fredericksburg, Virginia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Roman failed to respond to FINRA requests for information. The findings stated that Roman signed a public customer's name on a switch authorization form without the customer's authorization or consent. ([FINRA Case #2006007102001](#))

Allan Bruce Rosenthal (CRD #2252495, Registered Representative, Columbus, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Rosenthal consented to the described sanction and to the entry of findings that he effected unauthorized transactions and/or failed to execute sell orders in public customer accounts. The findings stated that Rosenthal marked all of the order tickets for the unauthorized trades as unsolicited when the trades, in fact, were

solicited. The findings also stated that Rosenthal sent misleading and unapproved emails to customers from his personal email address, contrary to NASD rules and his member firm's policy requiring that all written correspondence be sent from the firm's system and prohibiting the recommendations of securities not followed by the firm's research. The findings also included that Rosenthal failed to provide prompt written notice to his firm of his outside business activities. (FINRA Case #2007009427201)

David Michael Rozzano (CRD #2027455, Registered Principal, Syracuse, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Rozzano consented to the described sanction and to the entry of findings that he misappropriated approximately \$178,000 from public customers by persuading them to withdraw funds from their existing variable annuities on the pretense that he would invest the proceeds in other securities, but instead, he converted the funds for his own use and benefit. (FINRA Case #2007009262101)

Raquel Mae Sabando Sanchez (CRD #4795168, Registered Principal, Miami, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Sanchez failed to appear for FINRA on-the-record interviews. (FINRA Case #2007007253802)

Mark Anthony Sanicki (CRD #4860196, Registered Representative, Wayne, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for nine months. The fine must be paid either immediately upon Sanicki's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Sanicki consented to the described sanctions and to the entry of findings that he failed to report material information on his Form U4.

The suspension in any capacity is in effect from July 7, 2008, through April 6, 2009. (FINRA Case #2007009464701)

Peter Schmitt Jr. (CRD #1708137, Registered Representative, Plymouth, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Schmitt consented to the described sanction and to the entry of findings that while he was the executive secretary for a private association, he opened a securities account for the association at a member firm without authority to do so and later transferred the association's securities account to another member firm. The findings stated that Schmitt opened another unauthorized securities account in the association's name at this firm that was a deferred compensation account for Schmitt's financial benefit. The findings also stated that Schmitt caused securities transactions to be effected in the association's securities accounts without the association's knowledge or consent, and in the absence of written or oral authorization to exercise discretion in the accounts. The findings also included that Schmitt submitted false and misleading Resolution Agreements when he opened the accounts, certifying that the Association's Board of Directors had voted to open the accounts when, in fact, there had not been

any such vote. FINRA found that Schmitt opened a joint securities account in his and his wife's names at the firm but failed to disclose the existence of the securities accounts in which he had a financial interest to his member firms, and failed to advise the firm with which he had the accounts, in writing, that he was a registered representative with other firms. FINRA found that Schmitt failed to give prior written notice of his intention to execute securities transactions with the firm where he maintained the accounts to a member firm. ([FINRA Case #2006005570801](#))

Mark Ted Skowron (CRD #4712871, Registered Representative, Streamwood, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Skowron's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Skowron consented to the described sanctions and to the entry of findings that he affixed public customers' signatures to life insurance documents without their prior knowledge or consent.

The suspension in any capacity is in effect from July 21, 2008, through July 20, 2010. ([FINRA Case #2006005993501](#))

Stephen Matthew Sirianni (CRD #715867, Registered Representative, Wausau, Wisconsin) submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Sirianni's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Sirianni consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give prior written notice to, and receive written approval from, his member firm. The findings stated that Sirianni, while using the means and instrumentalities of interstate commerce to offer securities for sale, made material misrepresentations in the form of price predictions to induce transactions, which did occur. The findings also stated that Sirianni engaged in outside business activities and failed to give prompt written notice to his member firm. The findings also included that Sirianni failed to amend his Form U4 to disclose an SEC civil action.

The suspension in any capacity is in effect from August 4, 2008, through August 3, 2010. ([FINRA Case #E8A2004095401](#))

Mark Richard Sommers (CRD #430582, Registered Representative, Cedar, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for six months. In light of Sommers' financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Sommers consented to the described sanction and to the entry of findings that he borrowed \$42,000 from public customers, contrary to his member firm's written procedures forbidding registered representatives from borrowing money from customers. The findings stated that Sommers failed to amend his Form U4 to disclose material information.

The suspension in any capacity is in effect from June 16, 2008, through December 15, 2008. (FINRA Case #2006005509601)

Mark Elliott Taylor (CRD #4077014, Registered Representative, Purlear, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Taylor consented to the described sanction and to the entry of findings that he converted a public customer's term life insurance policy to whole life without her approval, forged her signature on a supplemental application and concealed his misconduct from the customer and his member firm by changing the address on the policy from the customer's address to his own post office box. The findings stated that Taylor wrote a check to cover the initial premium and as a result, did not profit from his conduct but received production credit for renewing the policy. The findings also stated that Taylor failed to appear for FINRA on-the-record testimony. (FINRA Case #2007010627201)

Erica Latishia Tolbert (CRD #5109478, Associated Person, Atlanta, Georgia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Tolbert ordered checks for a public customers' account using her personal address as the delivery address and either negotiated checks or caused checks totaling \$12,200 to be negotiated by a third party, thereby converting \$12,200, without the customers' authorization, knowledge or consent. The findings stated that Tolbert failed to respond to FINRA requests for information. (FINRA Case #2007007580501)

Giovi Rogelio Ulloa (CRD #4579872, Registered Representative, Fairview, New Jersey) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Ulloa failed to appear for a FINRA on-the-record interview. (FINRA Case #2007007253801)

James Byongmin Yim (CRD #3137645, Registered Representative, Sparks, Nevada) was barred from association with any FINRA member in any capacity and ordered to pay \$414,000 in restitution to a public customer. The sanctions were based on findings that Yim submitted requests to his member firm, which public customers purportedly signed, requesting the transfer of funds totaling \$1,328,000 from the customers' accounts to other accounts, without their knowledge, authorization or consent. The findings stated that Yim failed to respond to FINRA requests for information and to appear for an on-the-record interview. (FINRA Case #20060063365-01)

Thomas Rodrigo Yost (CRD #4202542, Registered Representative, Odenton, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Yost's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Yost consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, without prompt written notice to his member firm.

The suspension in any capacity is in effect from June 16, 2008, through December 15, 2008. (FINRA Case #2007010341701)

Decisions Issued

The Office of Hearing Officers (OHO) issued the following decisions, which have been appealed to or called for review by the NAC. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future FINRA Notices.

Cheryl Simone Eaton (CRD #2028154, Associated Person, Richmond, Virginia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Eaton failed to respond to FINRA requests for information. The findings stated that Eaton willfully failed to disclose material information on her Form U4.

This decision has been appealed to the NAC, and the sanction is not in effect pending consideration of the appeal. (FINRA Case #2007009838001)

Joseph Ricupero (CRD #1457028, Registered Principal, Stewart Manor, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Ricupero failed to respond to FINRA requests for information and documents. The findings stated that Ricupero failed to file FOCUS reports, an Annual Audit Report and a Form 1017 application for approval of his member firm's agreement to sell 1,800 customer accounts, representing substantially all of his firm's customer accounts, to another member firm for \$50,000.

This decision has been appealed to the NAC, and the sanction is not in effect pending consideration of the appeal. (FINRA Case # 2006004995301)

Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Richard P. Buss (CRD #2178688, Registered Representative, West Bend, Wisconsin) was named as a respondent in a FINRA complaint alleging that he received \$842,475 from public customers to be invested for the customers' benefit but, instead, used the funds to his own use and benefit or to pay insurance premiums for unrelated customers, without their knowledge or permission. The complaint alleges that Buss failed to respond to FINRA requests for information. (FINRA Case #2006005732801)

Kaleen Abdul Cooper (CRD #4471537, Registered Representative, Arlington, Virginia) was named as a respondent in a FINRA complaint alleging that, without the customers' authorization or consent, he converted \$12,017.51 by forging their signatures on forms to cause unauthorized redemptions or withdrawals from their mutual fund or variable life insurance accounts and then subsequently transferring the funds to his bank account for his own purposes. The complaint alleges that Cooper failed to respond to FINRA requests to testify at an on-the-record interview. ([FINRA Case #2007008636401](#))

Jason John DeFelice (CRD #2748462, Registered Representative, Mount Pleasant, South Carolina) was named as a respondent in a FINRA complaint alleging that he engaged in a private placement offering of interest in a hedge fund through means of an offering memorandum that was materially false and misleading. The complaint alleges that DeFelice engaged in highly aggressive short-term trading in the hedge fund account that was unsuitable, excessive and inconsistent with the disclosures in the fund offering memorandum. The complaint also alleges that DeFelice, in connection with the purchase or sale of securities, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of any national securities exchange, knowingly or recklessly employed devices, scheme or artifices to defraud; made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; engaged in acts, practices or courses of business which operated, or would operate, as a fraud or deceit upon any person; or effected transactions in, or induced the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance. The complaint further alleges that DeFelice churned the fund account by effecting a highly aggressive short-term trading strategy and acting with intent to defraud or with reckless disregard for the customer's best interests, for the purpose of generating commissions. ([FINRA Case #E072003011204](#))

Allerton Towne (CRD #1212315, Registered Representative, Boca Raton, Florida) was named as a respondent in a FINRA complaint alleging that he made improper use of public customer funds intentionally and without authorization. The complaint alleges that Towne converted money belonging to the customer by wiring \$4,181.81 from the customer's account to a bank account in the name of a corporation he controlled. The complaint also alleges that Towne engaged in outside business activity, for compensation, outside the scope of his relationship with his member firm and failed to give his firm notice of the activities. The complaint further alleges that Towne failed to respond to a FINRA request for documents. ([FINRA Case #2005003031001](#))

James Richard Willard III (CRD #1212281, Registered Principal, Greene, New York) was named as a respondent in a FINRA complaint alleging that he made unsuitable recommendations to a public customer without having a reasonable basis for believing that such recommendations were suitable based on the customer's age, investment objectives, risk tolerance, financial situation and needs. The complaint alleges that in connection with the unsuitable transactions, Willard created false documents causing his member firm's books and records to contain false and misleading information regarding the customer's age. The complaint also alleges that Willard willfully reported false information on his Forms U4 and willfully failed to disclose material information on his Forms U4. ([FINRA Case #2006006046401](#))

Firms Suspended Pursuant to NASD Rule 9552 for Failure to Supply Financial Information

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

NMP Capital, LLC
Kansas City, Missouri
(June 10, 2008)

Redwood Securities Group, Inc.
San Francisco, California
(June 5, 2008)

Firms Suspended Pursuant to NASD Rule 9553 for Failure to Pay Arbitration Fees

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Granite Associates, Inc.
Delray Beach, Florida
(November 20, 2007 – June 18, 2008)

K.W. Brown Investments
Delray Beach, Florida
(June 10, 2008)

Individuals Barred Pursuant to NASD Rule 9552(h)

(If the bar has been vacated, the date follows the bar date.)

Darrin Cornelius Bryant
Middletown, Connecticut
(June 2, 2008)

Rendell Eshey Draper
St. Charles, Missouri
(June 23, 2008)

Loris Kay Hager
Fargo, North Dakota
(June 20, 2008)

Individuals Suspended Pursuant to NASD Rule 9552(d)
 (The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Eric Richard Fronczek
 Naperville, Illinois
 (June 30, 2008)

Hsialoan Sharon Hsu
 Wellesley, Massachusetts
 (June 6, 2008)

Joonbeom Kim
 Diamond Bar, California
 (June 9, 2008)

William Leo Peckenpaugh
 Louisville, Kentucky
 (June 30, 2008)

Anthony Gerard Russo
 Corona, California
 (June 20, 2008)

John Suk
 La Mirada, California
 (June 30, 2008 – August 5, 2008)

Jimmy Eduardo Villarreal
 Queens Village, New York
 (June 23, 2008)

Individuals Suspended Pursuant to NASD Rule Series 9554 for Failure to Comply with an Arbitration Award or Settlement Agreement

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Nicholas P. Bentivegna
 Bethpage, New York
 (June 27, 2008)

Stephen Joseph Berry
 Westfield, New Jersey
 (June 19, 2008)

Allen Myles Darby
 Cornelius, North Carolina
 (April 24, 2008 – June 19, 2008)

Michael Joseph Hernandez
 Dallas, Texas
 (October 6, 2006 – June 19, 2008)

Chad James Johnson
 Dallas, Texas
 (June 27, 2008)

Brent Steven Lemons
 Tyler, Texas
 (June 27, 2008)

Raffi Oghlian
 Westwood, New Jersey
 (June 27, 2008)

Kenneth Joseph Pujdak
 Greenville, South Carolina
 (June 27, 2008)

Gene Paul Ramos
 Jersey City, New Jersey
 (May 8, 2008 – June 5, 2008)